



UNITED STATES DEPARTMENT OF COMMERCE
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Paper No. 5

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SPECIAL PROGRAMS OFFICE
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In re Application of
Jay S. Walker et al.
Application No. 09/409,041
Filed: September 29, 1999
Attorney Docket No. 99-030

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: NOTICE
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This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. No. 97-1128, -1280, -1453, 1998 U.S. App. LEXIS 21409, at *30 (Fed. Cir. Sept. 1, 1998). Therefore, your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

This file is being returned to Technology Center 2700.

Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

Karen Creasy
Petitions Examiner

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PETITION TO ACCEPT RETROACTIVE PAYMENT OF FEES

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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Dear Sirs:

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Petitioner, Walker Digital LLC, having a mailing address of 1 High Ridge Park, Stamford, CT 06905, is the owner of a number of applications pending in the U.S. Patent and Trademark Office (PTO), including the applications listed in Exhibit A attached hereto. For each of the applications identified in Exhibit A, and in all other applications owned by Petitioner, Petitioner properly and in good faith established status as a small entity. Also attached, as Exhibit B, is a marked-up copy of Petitioner's deposit account statements showing all small entity fees paid between July 1 and November 30, 1999.

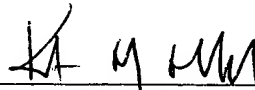
Petitioner has recently determined that, as of July 1, 1999, it no longer desires to claim status as a small entity. This determination was made in December 1999, and as of December 1, 1999, Petitioner has paid fees as a large entity. Pursuant to 37 CFR §1.28(c) Petitioner hereby petitions the PTO to accept retroactive payment of fees for fees paid as a small entity between July 1, 1999 and November 30, 1999.

Petitioner's continued payment of small entity fees between July 1, 1999 and November 30, 1999 was performed without any deceptive intent and in good faith. The entire delay between Petitioner's change of status and the filing of this petition was unintentional. Petitioner is making this petition promptly after becoming aware of the desire to change status and after receipt of Petitioner's deposit account statement for November 1999.

Petitioner seeks to pay retroactive fees for each of the applications listed in Exhibit A, and provides herewith a Fee Payment Authorization authorizing a fee payment from Petitioner's deposit account for each application, identifying the serial number, date of original fee payment, and the amount for which Petitioner seeks to pay a retroactive fee. The total retroactive fee to be paid is \$72,098.00. Petitioner hereby authorizes the PTO to charge a petition fee under 37 CFR §1.17 of \$130.00 and any other fees which may be due in connection with this Petition to Deposit Account No. 50-0271. This petition is provided in duplicate.

Date: 1/6/00

By:



Kurt M. Maschoff
Reg. No. 38,235
Attorney for Petitioner
Walker Digital, LLC
(203)905-6531

encls. (as noted)